

## Environmental Protection Agency

## § 89.205

credits generated in one model year may not be used for prior model years.

(ii) Credits generated from engines rated under 19 kW prior to the implementation date of the applicable Tier 2 standards, shall expire on December 31, 2007.

(iii) Credits generated from engines rated under 19 kW under the provisions of paragraph (c)(3)(ii) shall expire on December 31, 2003.

(iv) Credits generated from engines rated at or above 19 kW and under 37 kW under the provisions of paragraph (c)(3)(ii) of this section shall expire on December 31, 2002.

(5) Except as provided in paragraph (b)(3) of this section, engine families may not generate credits for one pollutant while also using credits for another pollutant in the same model year.

(6) Model year 2008 and 2009 engines rated under 8 kW that are allowed to certify under this part because they meet the criteria in 40 CFR 1039.101(c) may not generate emission credits.

(d) Manufacturers must demonstrate compliance under the averaging, banking, and trading programs for a particular model year within 270 days of the end of the model year. Except as allowed under paragraph (c)(3)(ii) of this section, manufacturers that have certified engine families to FELs above the applicable emission standards and do not have sufficient emission credits to offset the difference between the emission standards and the FEL for such engine families will be in violation of the conditions of the certificate of conformity for such engine families. The certificates of conformity may be voided ab initio under § 89.126(c) for those engine families.

[63 FR 57006, Oct. 23, 1998, as amended at 69 FR 39213, June 29, 2004]

### § 89.204 Averaging.

(a) *Requirements for Tier 1 engines rated at or above 37 kW.* A manufacturer may use averaging to offset an emission exceedance of a nonroad engine family caused by a NO<sub>x</sub> FEL above the applicable emission standard. NO<sub>x</sub> credits used in averaging may be obtained from credits generated by another engine family in the same model year, credits banked in a previous

model year, or credits obtained through trading.

(b) *Requirements for Tier 2 and later engines rated at or above 37 kW and Tier 1 and later engines rated under 37 kW.* A manufacturer may use averaging to offset an emission exceedance of a nonroad engine family caused by an NMHC+;NO<sub>x</sub> FEL or a PM FEL above the applicable emission standard. Credits used in averaging may be obtained from credits generated by another engine family in the same model year, credits banked in previous model years that have not expired, or credits obtained through trading. The use of credits shall be within the restrictions described in paragraph (c) of this section, § 89.206(b)(4) and § 89.203(b)(5)(ii).

(c) *Averaging sets for emission credits.* The averaging and trading of NO<sub>x</sub> emission credits, NMHC + NO<sub>x</sub> emission credits, and PM emissions credits will only be allowed between engine families in the same averaging set. The averaging sets for the averaging and trading of NO<sub>x</sub> emission credits, NMHC + NO<sub>x</sub> emission credits, and PM emission credits for nonroad engines are defined as follows:

(1) Eligible engines rated at or above 19 kW, other than marine diesel engines, constitute an averaging set.

(2) Eligible engines rated under 19 kW, other than marine diesel engines, constitute an averaging set.

(3) Marine diesel engines rated at or above 19 kW constitute an averaging set. Emission credits generated from marine diesel engines rated at or above 19 kW may be used to address credit shortfalls for eligible engines rated at or above 19 kW other than marine diesel engines.

(4) Marine diesel engines rated under 19 kW constitute an averaging set. Emission credits generated from marine diesel engines rated under 19 kW may be used to address credit shortfalls for eligible engines rated under 19 kW other than marine diesel engines.

[63 FR 57007, Oct. 23, 1998]

### § 89.205 Banking.

(a) *Requirements for Tier 1 engines rated at or above 37 kW.* (1) A manufacturer of a nonroad engine family with a NO<sub>x</sub> FEL below the applicable standard